

AMENDMENT TO RULES COMMITTEE PRINT 115-

39

OFFERED BY MR. DANNY K. DAVIS OF ILLINOIS

Page 273, after line 24, insert the following:

1 **SEC. 3409. PATRIOT EMPLOYER TAX CREDIT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-
3 chapter A of chapter 1 is amended by adding at the end
4 the following new section:

5 **“SEC. 45S. PATRIOT EMPLOYER TAX CREDIT.**

6 **“(a) DETERMINATION OF AMOUNT.—**

7 **“(1) IN GENERAL.—**For purposes of section 38,
8 the Patriot employer credit determined under this
9 section with respect to any taxpayer who is a Patriot
10 employer for any taxable year shall be equal to 10
11 percent of the qualified wages paid or incurred by
12 the Patriot employer.

13 **“(2) LIMITATION.—**The amount of qualified
14 wages which may be taken into account under para-
15 graph (1) with respect to any employee for any tax-
16 able year shall not exceed \$15,000.

17 **“(b) PATRIOT EMPLOYER.—**

1 “(1) IN GENERAL.—For purposes of subsection
2 (a), the term ‘Patriot employer’ means, with respect
3 to any taxable year, any taxpayer—

4 “(A) which—

5 “(i) maintains its headquarters in the
6 United States if the taxpayer (or any pred-
7 ecessor) has ever been headquartered in
8 the United States, and

9 “(ii) is not (and no predecessor of
10 which is) an expatriated entity (as defined
11 in section 7874(a)(2)) for the taxable year
12 or any preceding taxable year ending after
13 March 4, 2003,

14 “(B) with respect to which no assessable
15 payment has been imposed under section
16 4980H with respect to any month occurring
17 during the taxable year,

18 “(C) provides employees with—

19 “(i) paid sick leave, or

20 “(ii) paid family and medical leave,
21 and

22 “(D) in the case of—

23 “(i) a taxpayer which employs an av-
24 erage of more than 50 employees on busi-
25 ness days during the taxable year, which—

1 “(I) provides compensation for at
2 least 90 percent of its employees for
3 services provided by such employees
4 during the taxable year at an hourly
5 rate (or equivalent thereof) not less
6 than an amount equal to 218 percent
7 of the Federal poverty level for an in-
8 dividual for the calendar year in which
9 the taxable year begins divided by
10 1,750,

11 “(II) meets the retirement plan
12 requirements of subsection (c) with
13 respect to at least 90 percent of its
14 employees providing services during
15 the taxable year who are not highly
16 compensated employees, and

17 “(III) meets the additional re-
18 quirements of subparagraphs (A) and
19 (B) of paragraph (2), or

20 “(ii) any other taxpayer, which meets
21 the requirements of either subclause (I) or
22 (II) of clause (i) for the taxable year.

23 “(2) ADDITIONAL REQUIREMENTS FOR LARGE
24 EMPLOYERS.—

1 “(A) UNITED STATES EMPLOYMENT.—The
2 requirements of this subparagraph are met for
3 any taxable year if—

4 “(i) in any case in which the taxpayer
5 increases the number of employees per-
6 forming substantially all of their services
7 for the taxable year outside the United
8 States, the taxpayer either—

9 “(I) increases the number of em-
10 ployees performing substantially all of
11 their services inside the United States
12 by an amount not less than the in-
13 crease in such number for employees
14 outside the United States, or

15 “(II) has a percentage increase
16 in such employees inside the United
17 States which is not less than the per-
18 centage increase in such employees
19 outside the United States,

20 “(ii) in any case in which the taxpayer
21 decreases the number of employees per-
22 forming substantially all of their services
23 for the taxable year inside the United
24 States, the taxpayer either—

1 “(I) decreases the number of em-
2 ployees performing substantially all of
3 their services outside the United
4 States by an amount not less than the
5 decrease in such number for employ-
6 ees inside the United States, or

7 “(II) has a percentage decrease
8 in employees outside the United
9 States which is not less than the per-
10 centage decrease in such employees
11 inside the United States, and

12 “(iii) there is not a decrease in the
13 number of employees performing substan-
14 tially all of their services for the taxable
15 year inside the United States by reason of
16 the taxpayer contracting out such services
17 to persons who are not employees of the
18 taxpayer.

19 “(B) TREATMENT OF INDIVIDUALS IN THE
20 UNIFORMED SERVICES AND THE DISABLED.—
21 The requirements of this subparagraph are met
22 for any taxable year if—

23 “(i) the taxpayer provides differential
24 wage payments (as defined in section
25 3401(h)(2)) to each employee described in

1 section 3401(h)(2)(A) for any period dur-
2 ing the taxable year in an amount not less
3 than the difference between the wages
4 which would have been received from the
5 employer during such period and the
6 amount of pay and allowances which the
7 employee receives for service in the uni-
8 formed services during such period, and

9 “(ii) the taxpayer has in place at all
10 times during the taxable year a written
11 policy for the recruitment of employees
12 who have served in the uniformed services
13 or who are disabled.

14 “(3) SPECIAL RULES FOR APPLYING THE MIN-
15 IMUM WAGE AND RETIREMENT PLAN REQUIRE-
16 MENTS.—

17 “(A) MINIMUM WAGE.—In determining
18 whether the minimum wage requirements of
19 paragraph (1)(D)(i)(I) are met with respect to
20 90 percent of a taxpayer’s employees for any
21 taxable year—

22 “(i) a taxpayer may elect to exclude
23 from such determination apprentices or
24 learners that an employer may exclude
25 under the regulations under section 14(a)

1 of the Fair Labor Standards Act of 1938,
2 and

3 “(ii) if a taxpayer meets the require-
4 ments of paragraph (2)(B)(i) with respect
5 to providing differential wage payments to
6 any employee for any period (without re-
7 gard to whether such requirements apply
8 to the taxpayer), the hourly rate (or equiv-
9 alent thereof) for such payments shall be
10 determined on the basis of the wages which
11 would have been paid by the employer dur-
12 ing such period if the employee had not
13 been providing service in the uniformed
14 services.

15 “(B) RETIREMENT PLAN.—In determining
16 whether the retirement plan requirements of
17 paragraph (1)(D)(i)(II) are met with respect to
18 90 percent of a taxpayer’s employees for any
19 taxable year, a taxpayer may elect to exclude
20 from such determination—

21 “(i) employees not meeting the age or
22 service requirements under section
23 410(a)(1) (or such lower age or service re-
24 quirements as the employer provides), and

1 “(ii) employees described in section
2 410(b)(3).

3 “(c) RETIREMENT PLAN REQUIREMENTS.—

4 “(1) IN GENERAL.—The requirements of this
5 subsection are met for any taxable year with respect
6 to an employee of the taxpayer who is not a highly
7 compensated employee if the employee is eligible to
8 participate in 1 or more applicable eligible retire-
9 ment plans maintained by the employer for a plan
10 year ending with or within the taxable year.

11 “(2) APPLICABLE ELIGIBLE RETIREMENT
12 PLAN.—For purposes of this subsection, the term
13 ‘applicable eligible retirement plan’ means an eligible
14 retirement plan which, with respect to the plan year
15 described in paragraph (1), is either—

16 “(A) a defined contribution plan which—

17 “(i) requires the employer to make
18 nonelective contributions of at least 5 per-
19 cent of the compensation of the employee,
20 or

21 “(ii) both—

22 “(I) includes an eligible auto-
23 matic contribution arrangement (as
24 defined in section 414(w)(3)) under
25 which the uniform percentage de-

1 scribed in section 414(w)(3)(B) is at
2 least 5 percent, and

3 “(II) requires the employer to
4 make matching contributions of 100
5 percent of the elective deferrals (as
6 defined in section 414(u)(2)(C)) of
7 the employee to the extent such defer-
8 rals do not exceed the percentage
9 specified by the plan (not less than 5
10 percent) of the employee’s compensa-
11 tion, or

12 “(B) a defined benefit plan—

13 “(i) with respect to which the accrued
14 benefit of the employee derived from em-
15 ployer contributions, when expressed as an
16 annual retirement benefit, is not less than
17 the product of—

18 “(I) the lesser of 2 percent multi-
19 plied by the employee’s years of serv-
20 ice (determined under the rules of
21 paragraphs (4), (5), and (6) of section
22 411(a)) with the employer or 20 per-
23 cent, multiplied by

24 “(II) the employee’s final average
25 pay, or

1 “(ii) which is an applicable defined
2 benefit plan (as defined in section
3 411(a)(13)(B))—

4 “(I) which meets the interest
5 credit requirements of section
6 411(b)(5)(B)(i) with respect to the
7 plan year, and

8 “(II) under which the employee
9 receives a pay credit for the plan year
10 which is not less than 5 percent of
11 compensation.

12 “(3) DEFINITIONS AND SPECIAL RULES.—For
13 purposes of this subsection—

14 “(A) ELIGIBLE RETIREMENT PLAN.—The
15 term ‘eligible retirement plan’ has the meaning
16 given such term by section 402(c)(8)(B), except
17 that in the case of an account or annuity de-
18 scribed in clause (i) or (ii) thereof, such term
19 shall only include an account or annuity which
20 is a simplified employee pension (as defined in
21 section 408(k)).

22 “(B) FINAL AVERAGE PAY.—For purposes
23 of paragraph (2)(B)(i)(II), final average pay
24 shall be determined using the period of consecu-
25 tive years (not exceeding 5) during which the

1 employee had the greatest compensation from
2 the taxpayer.

3 “(C) ALTERNATIVE PLAN DESIGNS.—The
4 Secretary may prescribe regulations for a tax-
5 payer to meet the requirements of this sub-
6 section through a combination of defined con-
7 tribution plans or defined benefit plans de-
8 scribed in paragraph (1) or through a combina-
9 tion of both such types of plans.

10 “(D) PLANS MUST MEET REQUIREMENTS
11 WITHOUT TAKING INTO ACCOUNT SOCIAL SECU-
12 RITY AND SIMILAR CONTRIBUTIONS AND BENE-
13 FITS.—A rule similar to the rule of section
14 416(e) shall apply.

15 “(d) QUALIFIED WAGES AND COMPENSATION.—For
16 purposes of this section—

17 “(1) IN GENERAL.—The term ‘qualified wages’
18 means wages (as defined in section 51(e), deter-
19 mined without regard to paragraph (4) thereof) paid
20 or incurred by the Patriot employer during the tax-
21 able year to employees—

22 “(A) who perform substantially all of their
23 services for such Patriot employer inside the
24 United States, and

25 “(B) with respect to whom—

1 “(i) in the case of a Patriot employer
2 which employs an average of more than 50
3 employees on business days during the tax-
4 able year, the requirements of subclauses
5 (I) and (II) of subsection (b)(1)(D)(i) are
6 met, and

7 “(ii) in the case of any other Patriot
8 employer, the requirements of either sub-
9 clause (I) or (II) of subsection (b)(1)(D)(i)
10 are met.

11 “(2) SPECIAL RULES FOR AGRICULTURAL
12 LABOR AND RAILWAY LABOR.—Rules similar to the
13 rules of section 51(h) shall apply.

14 “(3) COMPENSATION.—For purposes of sub-
15 sections (b)(1)(D)(i)(I) and (c), the term ‘compensa-
16 tion’ has the same meaning as qualified wages, ex-
17 cept that section 51(c)(2) shall be disregarded in de-
18 termining the amount of such wages.

19 “(e) AGGREGATION RULES.—For purposes of this
20 section—

21 “(1) IN GENERAL.—All persons treated as a
22 single employer under subsection (a) or (b) of sec-
23 tion 52 shall be treated as a single taxpayer.

1 “(2) SPECIAL RULES FOR CERTAIN REQUIRE-
2 MENTS.—For purposes of applying paragraphs
3 (1)(A) and (2)(A) of subsection (b)—

4 “(A) the determination under subsections
5 (a) and (b) of section 52 for purposes of para-
6 graph (1) shall be made without regard to sec-
7 tion 1563(b)(2)(C) (relating to exclusion of for-
8 eign corporations), and

9 “(B) if any person treated as a single tax-
10 payer under this subsection (after application of
11 subparagraph (A)), or any predecessor of such
12 person, was an expatriated entity (as defined in
13 section 7874(a)(2)) for any taxable year ending
14 after March 4, 2003, then all persons treated
15 as a single taxpayer with such person shall be
16 treated as expatriated entities.

17 “(f) ELECTION TO HAVE CREDIT NOT APPLY.—

18 “(1) IN GENERAL.—A taxpayer may elect to
19 have this section not apply for any taxable year.

20 “(2) TIME FOR MAKING ELECTION.—An elec-
21 tion under paragraph (1) for any taxable year may
22 be made (or revoked) at any time before the expira-
23 tion of the 3-year period beginning on the last date
24 prescribed by law for filing the return for such tax-
25 able year (determined without regard to extensions).

1 “(3) MANNER OF MAKING ELECTION.—An elec-
2 tion under paragraph (1) (or revocation thereof)
3 shall be made in such manner as the Secretary may
4 by regulations prescribe.”.

5 (b) ALLOWANCE AS GENERAL BUSINESS CREDIT.—
6 Section 38(b) is amended by striking “plus” at the end
7 of paragraph (35), by striking the period at the end of
8 paragraph (36) and inserting “, plus”, and by adding at
9 the end the following:

10 “(37) in the case of a Patriot employer (as de-
11 fined in section 45S(b)) for any taxable year, the
12 Patriot employer credit determined under section
13 45S(a).”.

14 (c) DENIAL OF DOUBLE BENEFIT.—Subsection (a)
15 of section 280C is amended by inserting “45S(a),” after
16 “45P(a)”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2017.

Page 447, after line 3, insert the following:

1 **TITLE VI—CORPORATE RATE IN-**
2 **CREASE TO ACHIEVE REV-**
3 **ENUE NEUTRALITY.**

4 **SEC. 6001. CORPORATE RATE INCREASE TO ACHIEVE REV-**
5 **ENUE NEUTRALITY.**

6 (a) IN GENERAL.—The rate of tax specified in sec-
7 tion 11(b)(1) of the Internal Revenue Code of 1986 (after
8 the amendment made by section 3001(a)) shall be in-
9 creased by such number of percentage points as is nec-
10 essary to fully offset the aggregate reduction in Federal
11 revenues which result from the amendments made by sec-
12 tion 3409.

13 (b) EFFECTIVE DATE.—Subsection (a) shall apply as
14 if such provision were an amendment made by section
15 3001(a).

